IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 320 OF 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge?

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AMRUTLAL NAGJIBHAI - Petitioner(s)

Versus

DISTRICT PANCHAYAT - AMRELI - Respondent(s)

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Appearance :
None for Petitioner(s).
MR. P.J. KANABAR for Respondent(s).
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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 06/12/2005

ORAL JUDGMENT

1. The petitioner has filed this petition under Articles 226 and 227 of the Constitution of India praying for quashing and setting aside the impugned order dated 27th June, 1995 passed by the Labour Court, Bhavnagar in Reference (LCB) No.214 of 1992 and further praying for a declaration that the petitioner was entitled to the salary at the prevailing rate

from the year 1970 till he reached the age of superannuation in December-1984 and further praying for a direction to the respondent to pay the same forthwith with interest at the rate of 12% per annum.

2. It is the case of the petitioner that the petitioner was appointed as a peon-cum-driver on 30th April, 1958. The petitioner came to be promoted as a driver on 1st April, 1961. The petitioner fell sick in the year 1969 and applied for leave on various occasions from 1st December, 1969. The petitioner thereafter approached the respondent in July-1973 with the resumption report and medical certificate. On 13th July, 1973, the Deputy District Development Officer, informed the petitioner that he would be called for service after taking a decision. Thereafter, the petitioner received a show cause notice on 17th December, 1976 from the respondent calling upon him to show cause as to why he should not be treated as relieved from service. The petitioner gave his reply on 10th January, 1977 to the said show cause notice. The petitioner received a letter on 11th March, 1980 from the respondent calling upon him to given certain information. The petitioner replied to the respondent on 21st March, 1980.

The petitioner thereafter approached the learned Assistant Labour Commissioner for making a reference. The learned Assistant Labour Commissioner *vide* his order dated 14th March, 1989, refused to make the reference. The

petitioner, therefore, filed Special Civil Application No.6215 of 1989 before this Court. The said petition was decided by this Court *vide* Order dated 8th October, 1990, directing the petitioner to make a fresh application to the learned Assistant Labour Commissioner. Thereafter, on 27th June, 1995, the Labour Court, Bhavnagar passed the order disposing of the reference of the petitioner. Being aggrieved by and dissatisfied with the said order, the petitioner has filed the present petition.

3. This petition was originally filed by the learned Advocate, who was later on elevated as a Judge of this Court. The Court, therefore, issued notice on 16th June, 2005, making it returnable on 2nd August, 2005. Since the notice was not served, again a fresh notice of Rule was issued on 2nd August, 2005 on the petitioner at his new address. Office endorsement shows that the notice is still not received back. The petition is of the year 1996. The issue raised in the petition is with regard to the petitioner's entitlement of salary at the prevailing rate from the year 1970 till the age of superannuation of the petitioner in December-1984. Several efforts have been made by this Court to serve the petitioner, however, the petitioner could not be served. It is also the matter of fact that after filing the petition, the petitioner has not enquired about the outcome of the petition. This Court is, therefore, of the view that the petitioner is not interested in pursuing with the matter. The Court, therefore, disposes of this petition without going into the merits of the

matter and reserving the liberty in favour of the petitioner to approach this Court in case of difficulty or if need so arises in future.

4. Subject to the aforesaid observations, the petition is accordingly disposed of. Rule is discharged. No order as to costs.

[***K. A. Puj, J.***]

*kamlesh**